

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

| | | |
|----------------------|---|------------------|
| ROBERT and KATHY | : | |
| CONNELLY | : | |
| | : | |
| v. | : | C.A. No. 12-189L |
| | : | |
| AIR & LIQUID SYSTEMS | : | |
| CORP., et al. | : | |

REPORT AND RECOMMENDATION

Lincoln D. Almond, United States Magistrate Judge

This asbestos case was commenced by Plaintiffs in Rhode Island Superior Court on or about January 19, 2012. (Document No. 1, ¶ 1). Plaintiffs allege that Mr. Robert J. Connelly was injured due to exposure to “various asbestos containing products beginning in the 1960’s through his use of products manufactured, sold or distributed by the named defendants, including, but not limited to exposure occurring through his work as a Seaman in the United States Navy.” (Document No. 1-1 at p. 2). The named defendants are Air & Liquid Systems Corporation, CBS Corporation f/k/a Viacom, Inc., Foster Wheeler LLC, General Electric Company (“GE”) and P.I.C. Contractors, Inc. On March 15, 2012, CBS Corporation removed the action to this Court based on the so-called federal officer removal statute. See 28 U.S.C. § 1442(a)(1). Plaintiffs did not move for remand.

On April 11, 2012, Defendant GE moved for summary judgment pursuant to Fed. R. Civ. P. 56 on the grounds that Plaintiffs have “failed to offer proof that GE was a source of Robert Connelly’s alleged exposure to asbestos.” (Document No. 6-1, p. 1). In particular, GE asserts that Mr. Connelly’s video deposition regarding his work history was taken prior to removal of this action and that none of Mr. Connelly’s testimony was “sufficient to support Plaintiffs’ allegations that Mr.

Connelly worked with or around any asbestos-containing product manufactured, sold or distributed by GE or that a GE product was the source of Mr. Connelly's exposure to asbestos." Id. GE's Motion has been referred to me for a report and recommendation pursuant to 28 U.S.C. § 636(b)(1)(B).

Plaintiffs have not filed an Opposition to GE's Motion within the time required by Local Rule Cv 7(b)(1). Plaintiffs have also not requested an extension of time to do so under Fed. R. Civ. P. 6(b) and have not sought relief from responding under Fed. R. Civ. P. 56(d). Accordingly, since GE's Motion for Summary Judgment (Document No. 6) has not been timely opposed or contested in any way by Plaintiffs, I recommend that it be GRANTED.

Any objection to this Report and Recommendation must be specific and must be filed with the Clerk of the Court within fourteen (14) days of its receipt. See Fed. R. Civ. P. 72(b); LR Cv 72. Failure to file specific objections in a timely manner constitutes waiver of the right to review by the District Court and the right to appeal the District Court's decision. See United States v. Valencia-Copete, 792 F.2d 4, 6 (1st Cir. 1986); Park Motor Mart, Inc. v. Ford Motor Co., 616 F.2d 603, 605 (1st Cir. 1980).

/s/ Lincoln D. Almond
LINCOLN D. ALMOND
United States Magistrate Judge
May 29, 2012